

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.687 OF 2004

Sushil Chokhani ...Applicant

Vs.

The State of Maharashtra ...Respondent

Shri. A.P. Mundargi, Senior Advocate with Shri.
S.V. Kotwal for the Applicant.

Shri. Vijay Pradhan, Senior Advocate with Shri.
Ghanshyam Upadhyaya for the Intervener.

Shri. R.Y. Mirza, A.P.P. for the State.

CORAM : A.S.OKA, J.
DATED : SEPTEMBER 06, 2005.

P.C.:

1. On the last date submissions were heard in detail of the learned Senior Counsel appearing for the Applicant, the learned A.P.P. for the State and the learned Senior Counsel appearing for the Intervener.

2. Before the learned Senior Counsel appearing for the intervener addressed the court, an objection was raised by the learned Counsel appearing for the Applicant that the intervenor is not the first informant. Therefore, when a query was made by the court to the learned Senior Counsel appearing for the complainant whether the advocate on record has filed Vakalatnama of the complainant/first informant, on instructions of the advocate on record, the learned Senior Counsel stated that the advocate on record has filed Vakalatnama of the first informant. It was also stated on instructions that the advocate appearing for

the first informant has filed an application for intervention.

3. After submissions were fully heard, as time was insufficient, the Application was kept today for dictation of order. Today, when I perused the IInd Part of this Application, I found that Vakalatnama of the learned advocate who claims to be appearing for the first informant is signed by alleged Power of Attorney Holder of the first informant. The original vakalatnama shows that there is no endorsement on the presentation form that at the time of filing of the vakalatnama, either the Power of Attorney is produced or the original Power of Attorney or a true copy thereon is shown to the concerned Officer in the Office. I find that even a true copy of Power of Attorney is not on record. It was stated on the last date that an Application has been filed for intervention. Till today the Advocate who has allegedly filed the Application has not supplied the lodging number or the number of the said Application.

4. At this stage, the learned Counsel appearing for the Applicant states that he is not pressing the Application on merits and he may be granted time of four weeks to surrender before the appropriate court with liberty to apply for appropriate relief.

5. The said prayer is opposed by the learned A.P.P. and the learned Advocate appearing for the alleged intervenor.

6. Considering the fact that the Applicant has been protected by this Court from 13th February, 2004 by an Ad-interim order and considering the fact that Application is not being pressed on merits, the prayer deserves to be granted.

7. Hence, I pass the following order:

: O R D E R :

i) Application is rejected as not pressed. However, time of four weeks is granted to the Applicant to surrender before the appropriate court. It is obvious that the Applicant will be free to make appropriate Application before the appropriate court for appropriate relief. The Applicant will give advance notice of such Application to the Investigating Officer.

ii) All contentions are kept open.

iii) Parties to act upon an authenticated copy of this order.

JUDGE